

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

LOUIS MARCH,

Plaintiff,

v.

CIVIL ACTION NO. 5:08-cv-01382

MS. MILAND, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**


The Court has reviewed the Plaintiff, Louis March's Motion for Emergency Injunction and Civil Suit Pursuant to 42 U.S.C.A. § 1983 [Docket 1] and Application to Proceed Without Prepayment of Fees and Costs [Docket 3]. In said motion, the Plaintiff alleges violations of the Eighth Amendment of the United States Constitution, and requests that the Court issue criminal complaints against the Defendants in this action. By Standing Order entered August 1, 2006, and filed in this case on December 3, 2008, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and recommendation (PF&R). Magistrate Judge VanDervort filed his PF&R [Docket 16] on February 10, 2010. He found that the Plaintiff has failed to state a cognizable claim under the Eighth Amendment for which relief can be granted, and that the Plaintiff's request that criminal complaints be issued against the Defendants should be denied. Magistrate Judge Vandervort recommended that the undersigned deny the Plaintiff's Application to Proceed Without Prepayment of Fees and Costs, dismiss the Plaintiff's Motion For Emergency Injunction and Civil Suit Pursuant to 42 U.S.C.A. § 1983, and remove this matter from the Court's docket.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R in this case were due on March 1, 2010. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R [Docket 16], and **ORDERS** that the Motion for Emergency Injunction and Civil Suit pursuant to 42 U.S.C.A. § 1983 [Docket 1] is **DENIED** and the Application to Proceed Without Prepayment of Fees and Costs [Docket 3] is **DENIED**. The Court further **ORDERS** that this matter be **DISMISSED** from the docket. A separate Judgment Order will enter this day implementing the rulings contained herein.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 25, 2010

  
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IRENE C. BERGER, JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA